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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA NO. 2672/2000

New Delhi this the 21st day of December, 2000

HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

Rajender Kumar, S/o Sh. A.N. Thakkar,  
NCRB, East Block VII,  
R.K. Puram,  
New Delhi : 110 066 ..... Applicant  
(By Advocate : ~~Shri~~ Deepak Verma)

VERSUS

1. Union of India,  
Through The Secretary,  
Ministry of Home affairs,  
North Block, New Delhi
2. The Director,  
National Crime Records Bureau, MHA  
East Block 7, R.K. Puram,  
New Delhi : 66
3. The Asstt. Director (Admn)  
National Crime Records Bureau, MHA  
East Block VII R.K. Puram,  
New Delhi : 66 ..... Respondents  
(By Advocate : None )

O R D E R (ORAL)

The applicant is a Data Processing Asstt.-B (DPA-B), in the National Crime Records Bureau (NCRB) in the Ministry of Home Affairs (MHA). He is aggrieved by the adverse remarks recorded in his ACR for the year 1998-99 by the Reporting Authority and endorsed subsequently by the Reviewing and Accepting Authorities. Accordingly he seeks quashment of the aforesaid adverse remarks (Annexure A-1) together with the Order dated 22.12.1999 passed by the Head of the Department rejecting the representation filed by him against the aforesaid adverse remarks. He has filed an appeal against the order of the Head of the Department, just referred to, and is awaiting a response. The appeal was filed on 11.1.2000 (Annexure A-3). The learned counsel for the

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applicant contends that the applicant has never been adjudged adversely right from 1991 when he was first appointed and that the aforesaid adverse remarks are malafide and cannot be justified keeping in view the work and conduct of the applicant.

2. The learned counsel has, in particular, drawn my attention to the following adverse remarks recorded in the aforesaid ACR of the applicant:

"Column 16 (c) - Amenability to discipline: He is indisciplined and instigates others to create indiscipline in the Branch.

Column 18 (f) - Instructional capability: He is unable to take any class in any of the NCRB courses."

3. The aforesaid remarks have been cited by the learned counsel as mere instances. The applicant is aggrieved by all the adverse remarks recorded in the ACR including the above mentioned two specific remarks. So far as the adverse remarks on indiscipline is concerned, the learned counsel relies on the judgement/order of the Chandigarh Bench of this Tribunal dated 4.6.1987 in Krishan Lal Sharma Vs Union of India & Ors reported as A.T.R. 1987 (2)C.A.T. 510. In the aforesaid judgement, the Tribunal has held as follows:

"In the adverse remarks, it was recorded that he was highly indisciplined. It is not clear as to how he was indisciplined as no particular incident is mentioned or communicated to the petitioner. It is also stated that he is irregular, careless and casual but no particulars whatsoever are given. In the absence of these particulars and specially in the background of the facts of this case, these adverse remarks cannot be sustained and are accordingly quashed"

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From the aforesaid, it would appear that before an adverse remark on indiscipline is entered in the ACR, specific instances of indiscipline are required to be mentioned and also communicated to the petitioner. No such thing has been done in the present case by the concerned authorities. According to the learned counsel, no communication was ever given to the applicant informing him of the act of indiscipline on his part and also no explanation on the ground of indiscipline was ever called for. The applicant has also never been warned of indiscipline in the past. In view of this, a bald statement that the applicant is indisciplined and instigates others to create indiscipline in the Branch cannot be accepted.

4. In regard to the adverse remarks pertaining to the applicant's inability to take classes, the learned counsel has drawn my attention to the details available in Annexure A-5 collectively, which clearly shows that in the year 1998-99 itself the applicant has been working as Faculty Member during courses on Information Technology in Law Enforcement organised for Foreign Police Officers. The same would go to show that the adverse remarks about the inability of the applicant to take classes is not well founded nor seems to be justified.

5. In regard to the recording of adverse entries in the ACRs of Govt. servants, the learned counsel has drawn my attention to the decision of the Supreme Court in Sukhdeo Vs Commissioner, Amravati

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Division reported as (1999) 5 SCC 104. The relevant portion is reproduced below:

"It would be salutary that the controlling officer before writing adverse remarks would give prior sufficient opportunity in writing by informing him of the deficiency he noticed for improvement. In spite of the opportunity given if the officer/employee does not improve then it would be an obvious fact and would form material basis in support of the adverse remarks. It should also be mentioned that he had given prior opportunity in writing for improvement and yet the same was not availed of so that it would form part of the record. The power exercised by the controlling officer in the instant case is per se illegal."

6. The aforesaid seem to lay down that recording of adverse remarks in the ACR should be preceded, in normal course, by warnings given to the Govt. servant to improve on his performance. The learned counsel for the applicant states that no such warning/memo was given to him in respect of any area of activity of the applicant in the discharge of his official duties.

7. In the background of the above discussion, I find that prima facie there is no justification for recording adverse remarks in the ACR of the applicant for the year 1998-99. I also find that there has not been proper application of mind at the level of Head of Department, who rejected the applicant's representation. The applicant has filed his appeal about a year ago without any response from the Respondent No.1 being the appellate authority in this case. Such representations, which concern the future


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of a Govt. servant, should not be kept pending for such a long time and should be disposed of expeditiously.

8. In the circumstances of the case, I feel <sup>ends of r</sup> that <sup>r met r</sup> justice will be <sup>of r</sup> made by disposing the OA at the admission stage itself by directing the Respondent No.1 to consider the aforesaid appeal and to dispose <sup>of</sup> it <sup>if</sup> expeditiously and, in any event, within a period of two months from the date of receipt of this order. It is clarified that the orders to be passed by the appellate authority (Respondent No.1) should be speaking orders as well as reasoned <sup>orders</sup> and should cover all the adverse remarks given to the applicant separately. The applicant will, no doubt, be at liberty to approach this Tribunal if the decision taken by the Appellate Authority is found to be adverse to him.

9. The Registry will send a copy of the OA along with this order to the Respondents.

  
(S.A.T. RIZVI)  
MEMBER (A)

(pkr)